

## REMARKS

Claims 1-26 were previously pending. Of those 26 claims, claims 1, 2, 5, 6, 9, 14, and 16 are being currently amended, and dependent claim 8 is being cancelled. In addition, new claims 27-36 have been added, with claims 27, 35, and 36 being independent claims.

In this Office Action, Examiner rejects claims 1-7 under § 102(b) as being anticipated by Klinger U.S. Patent No. 5,181,079 (“Klinger”) and rejects claim 17 under § 102(e) as being anticipated by Meusel et al. U.S. Patent No. 6,928,886 (“Meusel”). Examiner further rejects dependent claims 8-15 and 18-26 for obviousness under § 103(a) based on a combination of Klinger and Meusel. In addition, Examiner objects to the abstract of the disclosure because of the legal phraseology term “means” in lines 2 and 4, objects to claim 2 due to a misspelling, and objects to claim 16 as being in improper multiple dependent form. Claim 16 has not been treated on its merits.

Concerning Examiner’s objections, the misspelling in dependent claim 2 and the improper multiple dependency in claim 16 have been corrected. In addition, the phrase “conversion spring means” in lines 2 and 4 of the Abstract of the disclosure has been replaced with “conversion spring element.” Therefore, Applicant respectfully submits that all of Examiner’s objections are overcome and should be withdrawn.

Independent claim 1 has been further amended by incorporating the subject matter of dependent claim 8 so that it now further recites a measuring apparatus that includes, in part, the first and the second assembly each comprising a printed circuit board.

Also, typos have been corrected in dependent claims 5 and 14, while dependent claim 6 has been amended to more clearly define the measuring apparatus. Furthermore, dependent claim 5 also has been amended to appropriately depend from claim 2 instead of claim 4, and claim 9 has been amended to appropriately depend from claim 7 instead of claim 8.

Concerning new claims 27-36, these claims are added to more clearly define the construction of Applicant's measuring device (claims 27-35) and joystick (claim 36) over the art of record. More specifically, independent claim 27 now recites a measuring device that includes, in part, a hollow member, a pair of axially spaced carrier plates, a first spring assembly elastically coupling the carrier plates and a second spring assembly elastically coupling the hollow member and one of the carrier plates [underlining for emphasis]. Independent claim 35 similarly recites a measuring device that includes, in part, a first member, a second member disposed for movement relative to the first member, and a third member disposed for movement relative to the first and second members, wherein the first and second members are elastically coupled by one or more first spring elements and the second and third members are elastically coupled by one or more second spring elements [underlining for emphasis]. And, independent claim 36 similarly recites a joystick that includes, in part, a housing including a hollow portion, a pair of carrier members disposed, a first spring assembly elastically coupling the carrier members, and a second spring assembly elastically coupling the hollow housing portion and a second of the carrier members [underlining for emphasis].

Support for the new independent claims, as well as their dependent claims, can be found throughout the specification and, more specifically, at least at page 8, line 18 to page 9, line 31; page 10, lines 23-31; and Figs. 2 and 3, for example.

With respect to Examiner's reliance on and use of Meusal as prior art under 102(e) and 103(a)/102(e), Applicant submits that this reference, in fact, is unavailable as citable prior art. Specifically, the U.S. filing date of Meusel, for the purpose of establishing whether this reference is available as 102(e) prior art, is September 4, 2002. Applicant's present application has an earlier effective filing date insofar as it properly claims priority back to German patent application DE 10225418.4, which was filed on July 7, 2002. Clearly, Meusel is unavailable as citable prior art. Thus, any rejections based thereon are incorrect as a matter of law and must be withdrawn.

Also, because claim 8 stands rejected over the combination of Klinger and Meusel, amended independent claim 1, which incorporates dependent claim 8, is in condition for allowance. Additionally, claims 2-7 and 9-26 similarly are in condition for allowance, those claims being improperly rejected over Meusal or a combination of Klinger and Meusel.

With respect to new claims 27-36, new independent claims 27 and 35, which are directed to measuring devices, are generally roughly akin to independent claim 17, which was rejected as being anticipated by Meusel. New independent claim 36, which is directed to a joystick, incorporates substantially the same subject matter as independent claim 27 and the additional components of a housing and manipulating handle. Accordingly, for the same reasons above as pertains to Meusel, the new claims are in condition for allowance. However, in the

event that Examiner believes that one or more of the independent new claims would be anticipated by or obvious over Klinger, Applicant addresses that reference below.

Examiner can appreciate that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, to establish *prima facie* obviousness of a claimed invention, it is well established that all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). For the reasons that follow, Klinger fails teach or suggest each and every element of Applicant's claimed invention, as required by independent claims 27, 34, and 35.

Applicant's independent claim 27 (and similarly 34 and 35) calls for a first spring assembly 18 elastically coupling carrier plates 12 and 14 and a second spring assembly 20 elastically coupling a hollow member 16 and one of the carrier plates 14. Klinger appears to disclose a single spring element in the form of spring bellow 8 (Figure 2) or 61 (Figure 3), which provides for an elastic coupling between the base body 5 carrying light emitters 11, 12, and 13 and the handle member 6 carrying the light detector 3. To that end, while Klinger, at best, may disclose Applicant's first spring assembly, this reference simply fails to disclose Applicant's second spring assembly 20, which elastically couples the hollow member and one of the carrier plates. In further support thereof, by providing the light emitters 11, 12, 13 directly on the base body 5 (rather than providing them on a separate carrier elastically coupled to the base body 5), the device of Klinger suffers from one of the drawbacks that is overcome by Applicant's claimed

invention. That is, the range of relative movement of the handle member 6 and the based body 5 is limited in Klinger to the measurement range of the optical sensor formed by the light emitters 11, 12, 13 and the light detector 3. Applicant's claimed invention, conversely, allows for a larger range of relative movement of two objects compared to the measurement range of the optical sensor, as is discussed at page 3, lines 16-24 of the specification of the subject invention. Therefore, Klinger at least fails to teach (or suggest) a first spring assembly elastically coupling carrier plates and a second spring assembly elastically coupling a hollow member and one of the carrier plates, as required by independent claim 27 (and similarly claims 34 and 35).

In view of the foregoing, it is respectfully submitted that new claims 27-36, like claims 1-7 and 9-26, are in condition for allowance.

## **Conclusion**

As a result of the remarks given herein, Applicant submits that the rejections of the pending claims have been overcome. Therefore, Applicant respectfully submits that this case is in condition for allowance and requests allowance of the pending claims.

If this Response leaves any issues open or Examiner wishes to discuss any further issues, a call to undersigned counsel would be gratefully appreciated. Applicant also has submitted all fees believed to be necessary herewith. Should any additional fees or surcharges be deemed necessary, Examiner has authorization to charge fees or credit any overpayment to Deposit Account No. 23-3000.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

By /Randall S. Jackson, Jr./

Randall S. Jackson, Jr.

Reg. 48,248

2700 Carew Tower  
Cincinnati, Ohio 45202  
(513) 241-2324  
FAX (513) 241-6234